

810-2-8-.01 Taxable Income for Determining the Applicable Privilege Tax Rate.

(1) For tax years beginning after December 31, 1999, the taxable income used to compute the tax rate for the Alabama Business Privilege Tax shall be determined as follows:

(a) C Corporations. 1. The taxable income used to determine the tax rate for the privilege tax shall be the federal taxable income before net operating loss and special deductions. This income shall be apportioned in accordance with §40-27-1, Code of Alabama 1975, and the accompanying rules. Deductions shall not be allowed for the federal income tax or the Alabama net operating loss in computing an income category for purposes of determining the rate for the privilege tax. C corporations filing as members of an Alabama consolidated group shall determine taxable income for the privilege tax on a separate company basis.

2. Corporations granted permission by the Alabama Department of Revenue to use separate accounting to determine Alabama taxable income shall compute the income based on Internal Revenue Service Form 1120. The taxable income before the deductions for the net operating loss and special deduction shall be used to determine the income category for purposes of determining the rate for the privilege tax.

3. Corporations granted permission by the Alabama Department of Revenue to use any other alternative methods to apportion income shall use these methods to determine the taxable income used to compute the tax rate for the privilege tax.

(b) S Corporations. 1. The taxable income used to determine the tax rate for the privilege tax shall be the federal ordinary income or (loss) from trade or business activities plus any items of income or applicable deductions passed through to the shareholders that were determined pursuant to 26 U. S. C. §1366. This income shall be apportioned in accordance with §40-27-1, Code of Alabama 1975, and the accompanying rules. Deductions shall not be allowed for the federal income tax or the Alabama net operating loss in computing an income category for purposes of determining the rate for the privilege tax.

2. S Corporations granted permission by the Alabama Department of Revenue to use separate accounting to determine Alabama taxable income shall compute the income based on the Internal Revenue Service Form 1120S. Any Alabama income or expenses passed through to the shareholders shall be added to or subtracted from the Alabama taxable income to arrive at the taxable income used to determine the rate for the privilege tax.

3. S Corporations granted permission by the Alabama Department of Revenue to use any other alternative methods to apportion income shall use these methods to determine the taxable income used to compute the tax rate for the privilege tax.

(c) Limited Liability Entities. 1. The taxable income used to determine the tax rate for the privilege tax shall be the federal ordinary income or (loss) from trade or business activities plus any items of income or expenses passed through to the shareholders that were determined pursuant to 26 U. S. C. §702. This income shall be apportioned in accordance with §40-27-1, Code of Alabama 1975, and the accompanying rules.

2. Limited Liability Entities granted permission by the Alabama Department of Revenue to use separate accounting to determine Alabama taxable income shall compute the income based on Internal Revenue Service Form 1065. Any Alabama income or expenses passed through to the

shareholders shall be added to or subtracted from Alabama taxable income to arrive at the taxable income used to determine the rate for the privilege tax.

3. Limited Liability Entities granted permission by the Alabama Department of Revenue to use any other alternative methods to apportion income shall use these methods to determine the taxable income used to compute the tax rate for the privilege tax.

(d) Real Estate Investment Trusts. 1. The taxable income used to determine the tax rate for the privilege tax shall be the federal income before the net operating loss deduction, the total deduction for dividends paid, and the 26 U. S. C. §857(b)(2)(E) deduction. This income shall be apportioned in accordance with §40-27-1, Code of Alabama 1975, and the accompanying rules.

2. Real Estate Investment Trusts granted permission by the Alabama Department of Revenue to use separate accounting to determine Alabama taxable income, shall compute the income based on Internal Revenue Service Form 1120-REIT.

3. Real Estate Investment Trusts granted permission by the Alabama Department of Revenue to use any other alternative methods to apportion income shall use these methods to determine the taxable income used to compute the tax rate for the privilege tax.

(e) Disregarded Entities. 1. The taxable income used to determine the tax rate for the privilege tax shall be the federal ordinary income or (loss) from trade or business activities plus any items of income or expenses passed through to the shareholders that were determined pursuant to 26 U. S. C. §1361 or 26 U. S. C. §61. This income shall be apportioned in accordance with §40-27-1, Code of Alabama 1975, and the accompanying rules.

2. Disregarded Entities granted permission by the Alabama Department of Revenue to use separate accounting to determine Alabama taxable income, shall compute the income based on either Internal Revenue Service Form 1065 or Form 1120S which ever is applicable. Any Alabama income or expenses passed through to the shareholders shall be added to or subtracted from Alabama taxable income to arrive at the taxable income used to determine the rate for the privilege tax.

3. Disregarded Entities granted permission by the Alabama Department of Revenue to use any other alternative methods to income shall use these methods to determine the taxable income used to compute the tax rate for the privilege tax.

(f) Financial Institutions. 1. For Financial Institutions filing as C corporations with the Internal Revenue Service, the taxable income used to determine the tax rate for the privilege tax shall be the federal taxable income before net operating loss and special deductions. For Financial Institutions filing as S Corporations with the Internal Revenue Service, the taxable income used to determine the tax rate for the privilege tax shall be the federal ordinary income or (loss) from trade or business activities plus any items of income or expenses passed through to the shareholders that were determined pursuant to 26 U. S. C. §1366. This income shall be apportioned in accordance with Chapter 16, Title 40, Code of Alabama 1975, and the accompanying rules. Deductions shall not be allowed for the federal income tax or the Alabama net operating loss in computing an income category for purposes of determining the rate for the privilege tax. Financial Institutions filing as members of an Alabama consolidated group shall determine taxable income for the privilege tax on a separate company basis. (Note: Financial Institutions are subject to the Financial Institution Excise Tax in Alabama and may not file as an Alabama C or S Corporation.)

2. Financial Institutions given permission by the Alabama Department of Revenue to use separate accounting to determine Alabama taxable income shall compute the income based on either the

Internal Revenue Service Form 1120 or Form 1120S which ever is applicable. For Financial Institutions filing as S Corporations with the Internal Revenue Service, any Alabama income or expenses passed through to the shareholders shall be added to or subtracted from Alabama taxable income to arrive at the taxable income used to determine the rate for the privilege tax.

3. Financial Institutions granted permission by the Alabama Department of Revenue to use any other alternative methods to apportion income shall use these methods to determine the taxable income used to compute the tax rate for the privilege tax.

(g) Insurance Companies. For U. S. Life Insurance Company filing Internal Revenue Service Form 1120-L, federal taxable income shall be total taxable income less the dividends received deduction and the operations loss deduction. For U. S. Property and Casualty Insurance Companies filing Internal Revenue Service Form 1120-PC, federal taxable income shall be taxable income less the dividend received deduction and the net operating loss deduction. This income shall be apportioned in accordance with Title 27, Code of Alabama 1975, relating to insurance companies.

Author: Voncile Catledge

Authority: Section 40-2A-7(a)(5), Code of Alabama 1975, as amended.

History: New rule: Filed July 26, 2000, effective August 30, 2000.

